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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,597	02/11/2002	Shawn Nelson	15605.1	4845
22913	7590	07/13/2004		
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			EXAMINER VU, STEPHEN A	
			ART UNIT 3636	PAPER NUMBER

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,597

Applicant(s)

NELSON, SHAWN

Examiner

Stephen A Vu

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004 and 4/15/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-36 is/are pending in the application.
- 4a) Of the above claim(s) 17-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-16, and 35-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2,4,12-16, and 35-36 stand rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al.

Davis et al show a furniture assembly comprising a chair (1) comprising an air permeable bladder (2), a filler disposed within the air permeable bladder, and a vacuum chamber has a partial opening.

With claim 2, the partially opened vacuum chamber has a portion that is gathered together without forming an airtight seal.

With claim 3, the partially opened vacuum chamber has an opening that is not sufficient to allow the chair to refill with air.

With claim 4, the partial opening allows the chair to partially refill with air.

With claim 12, a storage container has an opening to receive the chair and vacuum chamber.

With claim 13, the storage container is constructed from an air permeable material.

With claim 14, the storage container is constructed of an air impermeable material.

Art Unit: 3636

With claim 15, a minimal amount of air is allowed inside the vacuum chamber.

With claim 16, the bladder comprises a flaccid material.

Please note that claims 35-36 correspond to claims 34-35 of the applicant's amendment. The claims have been renumbered, because the applicant had claim 30 appeared twice in the original submission.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al.

Davis et al disclose the claimed invention except for the chair to be compressed as the following ranges: about 1% to about 99% of the original volume, about 4% to about 50% of the original volume, about 5% to about 25% of the original volume, about

Art Unit: 3636

5% to about 15% of the original volume, about 6% to about 99%, about 8% to about 50% of the original volume, and about 10% to about 25% of the original volume. It would have been obvious to one having ordinary skill in the art at the time the invention was made to specify the chair to be compressed as the following ranges: about 1% to about 99% of the volume, about 4% to about 50% of the original volume, about 5% to about 25% of the original volume, about 5% to about 15% of the original volume, about 6% to about 99%, about 8% to about 50% of the original volume, and about 10% to about 25% of the original volume, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

Applicant's arguments filed April 6, 2004 have been fully considered but they are not persuasive. The applicant has argued that the prior art of Davis does not "teach the use of an air permeable bladder". The examiner would like to point out that claims 1 and 35 are directed to the apparatus of "a furniture assembly" and not the method to how to use an air permeable bladder. Therefore, the prior art rejection based on Davis has been directed accordingly to the limitations in the claims. It is best interpreted that Davis et al show a furniture assembly comprising a chair (1) comprising an air permeable bladder (2), a filler disposed within the air permeable bladder, and a vacuum chamber has a partial opening.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen Vu
July 7, 2004



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600